

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

RECEIVED

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RE: COMPLAINT OF US LEC OF
TENNESSEE, INC. AGAINST
ELECTRIC POWER BOARD OF
CHATTANOOGA

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Docket No. 02-00562

TN REGULATORY AUTHORITY
DOCKET ROOM

ELECTRIC POWER BOARD OF CHATTANOOGA'S
FIRST INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Comes the Respondent, the Electric Power Board of Chattanooga, by and through counsel, and pursuant to Tenn. R. & Reg. 1220-1-2-.11 and Rules 26, 33, and 34 of the Tennessee Rules of Civil Procedure, requests US LEC of Tennessee, Inc. ("US LEC") answer the following Interrogatories and Requests for Production of Documents (individually a "Request," and collectively the "Requests"):

INSTRUCTIONS AND DEFINITIONS

1. Instructions:

a. Responses and Objections: US LEC shall answer each Request separately, fully, in writing and, as applicable, under oath. If US LEC objects to a Request, US LEC shall respond to the fullest extent that it does not object and shall state the objection and the reasons therefore in the remainder of its answer. The answers are to be signed by the persons making them and shall be served on counsel for EPB. The answers of US LEC shall include all information, including hearsay, which is in the possession, custody or control of US LEC and its employees, agents, representatives and attorneys, or in the records of US LEC or such other persons, or otherwise available to it. If US LEC cannot provide all of the information requested

in each Request, it should provide the information which can be provided and explain the efforts made to obtain the information which cannot be provided.

b. Information Claimed to be Privileged or Work Product. In the event US LEC objects to providing any information requested by these Requests on the grounds that it is privileged for any reason, or work product, US LEC should provide, in addition to the grounds for its objections:

- (1) The subject of the information withheld;
- (2) The identity of all persons by whom and to whom the information was communicated; and
- (3) If the information is contained in a document, the identity of that document.

2. Definitions. As used in these Interrogatories:

a. US LEC. “US LEC” shall include US LEC of Tennessee, Inc. and its parent, subsidiary, sibling, and affiliate organizations (collectively the “US LEC Entities”), as well as the employees, attorneys, consultants, representatives, agents and any other persons acting on behalf of any one or more of the US LEC Entities.

b. Person. The word “person” shall mean any natural person, corporation, partnership, association, governmental agency or other entity of any kind.

c. Document. The words “document” or “documents” are used herein in the broadest sense and include originals, drafts, copies and reproductions of all writings, records, papers, correspondence, communications (including intra- and inter-company communications), reports, directives, affidavits, computer printouts, data contained or stored in computers and computer storage devices, data contained or stored in any other storage device; summaries,

records, notes and memoranda of telephone conversations; summaries, records, notes, memoranda, tape recordings or minutes of personal conversations, interviews, or meetings; executed agreements and all other forms of understanding; memoranda; instructions; projections; tabulations; notes; notebooks; diaries; e-mails; telephone logs; calendars; travel and expense records; worksheets, receipts; vouchers; books of account (including ledgers, sub-ledgers, journals, sub-journals, vouchers, receipts, invoices and billings and all other financial records); bank records and statements; cancelled checks and all vouchers or retained copies thereof; and all credit and debit memos and other banking advices and bank communications; all notes, mortgages and security instruments; manuals; books; pamphlets; brochures; circulars; telegrams; cablegrams; transcripts; newspaper or magazine clippings; all drafts and copies of each document listed above; and every other document of any kind.

d. Identity and Identify.

(1) When used with respect to persons, the word “identify” or a request for the “identity” of the person shall mean that US LEC shall state, in addition to the full name of said person, the last known business and residence addresses and telephone numbers of such person, and if the person is a corporation, its State of incorporation.

(2) When used with respect to documents, the word “identify” or a request for the “identity” of the documents, shall mean that US LEC shall state the title, heading or caption of such document, if any; the date of the document and the date on which it was prepared; the general nature or description of the document; the identity of the person or persons who prepared it; the identity of each person to whom the document was addressed and by whom it was received and the identity of the person who has custody of the document. This information shall be given in sufficient detail to enable a party or person to whom a subpoena is

directed to identify fully the document to be produced and to permit a determination to be made when such document is produced that it is in fact the document so described. In lieu of such a description, you may produce copies of documents; however, if you produce copies, you shall state in reference to each document: the date such document was prepared and the identity of the person(s) who prepared it, the identity of each person to whom such document was sent or given and/or by whom it was received and the identity of the person who now has custody of such document.

e. Relating to or Relates to. The words “relating to” or “relates to” shall mean evidencing, supporting, contradicting, constituting, containing, recording, discussing, summarizing, analyzing, disclosing, referring to in whole or in part, or otherwise pertaining to in any way.

f. The terms “and” and “or” shall be construed either conjunctively or disjunctively to bring within the scope of these requests the broadest answer or response possible.

g. Singular and plural nouns shall be construed to bring within the scope of these Requests the broadest answer or response possible.

h. “Any,” “each,” “the,” “every,” and “all” shall be construed to bring within the scope of these requests the broadest answer or response possible.

INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Please identify the date when US LEC of Tennessee, Inc. received a certificate of convenience and necessity from the TRA.

Response:

2. Please identify each and every document relating to the Complaint and/or the matters at issue in the Complaint.

Response:

3. In Paragraph 6 of the Complaint, US LEC contends that the Telecommunications Division of EPB often shortens its name to "EPB." Please state each and every fact, identify each and every document, and identify each and every person with knowledge relating to this contention.

Response:

4. In Paragraph 6 of the Complaint, US LEC contends that on at least one occasion "executives of the Telecommunications Division have represented to potential customers that EPB Telecommunications 'has been around for 70 years'". Please state each and every fact,

identify each and every document, and identify each and every person with knowledge relating to this contention.

Response:

5. In Paragraph 6 of the Complaint, US LEC contends that EPB Telecommunications has made “repeated, sometimes inaccurate statements, about the relationship between the telecommunications and electric divisions” of EPB. Please state each and every fact, identify each and every document, and identify each and every person with knowledge relating to this contention.

Response:

6. Please state each and every fact, identify each and every document and identify each and every person with knowledge relating to the contentions in the first sentence of Paragraph 7 of the Complaint.

Response:

7. On page 2 of US LEC’s Response to Motion to Dismiss, US LEC contends that “EPB intentionally presents its electric and telephone operations as intertwined.” Please state

each and every fact, identify each and every document, and identify each and every person with knowledge relating to this contention.

Response:

8. On page 3 of US LEC's Response to Motion to Dismiss, US LEC contends that "EPB may have engaged in discrimination and cross-subsidization by allowing its telecommunications division – but not other carriers – to use the electric company's building access to facilities." Please state each and every fact, identify each and every document, and identify each and every person with knowledge relating to this contention.

Response:

9. Does US LEC contend that EPB's Electric Division has denied US LEC access to building entrance facilities and/or rights-of-way? If so, please state each and every fact, identify each and every document, and identify each and every person with knowledge relating to your contention.

Response:

10. Does US LEC contend that EPB's Electric Division has denied one or more telecommunications carriers access to building entrance facilities and/or rights-of-way? If so,

please state each and every fact, identify each and every document, and identify each and every person with knowledge relating to your contention.

Response:

11. Please describe in detail each and every arrangement by which US LEC, directly or indirectly, obtains building access to serve its customers in Hamilton County, Tennessee.

Response:

12. Please identify each and every building or other location in Hamilton County, Tennessee where US LEC currently has or since January 1, 2001 has had one or more customers; and for each such building or location, describe in detail US LEC's building access arrangements.

Response:

13. Has US LEC ever requested, but been denied, building access to install facilities in Hamilton County, Tennessee? If so, please describe each and every denial in detail, identify each and every document relating to such denial and identify each and every person with knowledge relating to such denial.

Response:

14. Does US LEC own or operate any fiber optic and/or any other transport facilities in Hamilton County, Tennessee? If so, please describe those facilities in detail, identify each and every system map and/or other drawing relating to the location of such facilities, and describe in detail each and every building access arrangement for such facilities.

Response:

15. Does US LEC plan to own or operate fiber optic and/or other transport facilities in Hamilton County, Tennessee within the next year? If so, please describe such plans in detail and identify each and every document relating to such plans.

Response:

16. Does US LEC plan, at any time in the future, to own or operate fiber and/or other transport facilities in Hamilton County, Tennessee? If so, please describe such plans in detail and identify each and every document relating to such plans.

Response:

17. Please describe in detail each and every transport or other arrangement that provides connectivity between one or more customers of US LEC and US LEC's switch in Hamilton County, Tennessee.

Response:

18. Please state whether US LEC is considering or anticipates modifying or supplementing the arrangements described in Interrogatory and Request for Production No. 17. If so, please describe in detail each and every modified or supplemental arrangement that US LEC (a) has considered since January 1, 2001; (b) is presently considering; and/or (c) anticipates considering.

Response:

19. Please identify each and every incumbent local exchange carrier, competitive local exchange carrier, other carrier and/or other person providing all or any portion of the transport services identified in Interrogatory and Request for Production No. 17 and describe in detail (a) the service(s) that each such carrier and/or person is providing; and (b) the material terms and conditions, including without limitation, price and contract term, of each such arrangement.

Response:

20. Please identify each and every incumbent local exchange carrier, competitive local exchange carrier, other carrier and/or other person that US LEC is considering to have provide all or any portion of the transport services identified in Interrogatory and Request for Production No. 18 and describe in detail (a) the service(s) that each such carrier and/or person has agreed to provide; (b) the service(s) that each such carrier and/or person may provide; and (c) the material terms and conditions, including without limitation, price and contract term, of each and every arrangement entered into, considered or under consideration.

Response:

21. Please identify each and every US LEC proposal to present or prospective customers, marketing materials and any other documents that reference EPB, EPB's Electric Division, EPB's Telecommunications Division and/or relate to EPB Telecommunications' provision of telecommunications service.

Response:

22. Please identify each and every document relating to US LEC's communications with present or former customers of EPB Telecommunications.

Response:

23. Please identify each and every person with knowledge of matters relating to the Complaint and identify each and every document relating to US LEC's consideration of filing a complaint against EPB, EPB's Electric Division, or EPB's Telecommunications Division.

Response:

24. For each of the foregoing requests, please identify each and every person, other than counsel of record in this proceeding, who participated in any way in preparing US LEC's responses.

Response:

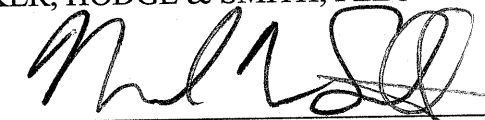
25. Please produce each and every document identified in your responses to the foregoing Interrogatories and Requests for Production of Documents.

Response:

Respectfully Submitted,

STRANG, FLETCHER, CARRIGER,
WALKER, HODGE & SMITH, PLLC

By:



Carlos C. Smith (BPR #1710)
William C. Carriger (BPR # 1778)
Mark W. Smith (BPR #16908)
Attorneys for Electric Power Board
of Chattanooga
400 Krystal Building
One Union Square
Chattanooga, Tennessee 37402
(423) 265-2000

CERTIFICATE OF SERVICE

I certify that a true and exact copy of this pleading has been served upon the following attorneys by delivering a true and exact copy thereof to the offices of said counsel or by placing a true and exact copy of said pleading in the United States mail addressed to said counsel at his office with sufficient postage thereupon to carry the same to its destination:

Henry Walker
Boult, Cummings, Conners & Berry, PLC
414 Union Street, Suite 1600
P.O. Box 198062
Nashville, Tennessee 37219

Guy M. Hicks
BellSouth Telecommunications, Inc.
333 Commerce Street
Suite 2101
Nashville, Tennessee 37201

This 28 day of AUGUST, 2002



For: Strang, Fletcher, Carriger, Walker,
Hodge & Smith, PLLC